

State of California  
BOARD OF EQUALIZATION

**UNDERGROUND STORAGE TANK REGULATIONS**

**Regulation 1205. FEE PAYER; REBUTTABLE PRESUMPTION.**

*Reference:* Section 50107, Revenue and Taxation Code. Section 25299.41 and 25299.43, Health and Safety Code.

The fee is due from the owner of an underground storage tank for which a permit is required pursuant to Section 25284 of the Health and Safety Code. There is a rebuttable presumption that the owner of the real property is the owner of the underground storage tank located on the property, even if the property is leased to another person. This presumption may be overcome by showing that ownership of the tank rests with someone other than the real property owner. Evidence to rebut the presumption may include, but is not limited to, the following:

- (a) The lessee installed the underground storage tank at the location, and the lease agreement gives the lessee the right to remove the tank at the termination of the lease, regardless of whether the lessor's approval of the removal is required.
- (b) The lessee installed the underground storage tank at the location, and the lease agreement states that any improvements installed by the lessee are the property of the lessee during the term of the lease.
- (c) Documentation, such as a bill of sale, shows the transfer of ownership of the tank to a person other than the real property owner.
- (d) The underground storage tank is depreciated on the state or federal income tax returns of a person other than the real property owner.
- (e) The underground storage tank existed at the premises at the time the lease agreement was signed, and the lease agreement specifies that the underground storage tank is owned by and title thereto is vested in the lessee during the term of the lease.

*History:* Adopted November 1, 2000, effective February 8, 2001.